



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS SPECIAL MEETING NOTICE

When: Saturday, October 9, 1999 at 8:30 a.m.

Where: Executive Conference Room, 4th floor
King County Courthouse
516 Third Avenue, Seattle

AGENDA

1. ***Approval of Agenda.***
2. ***Approval of Meeting Minutes of September 21, 1999.***
3. ***Discussion of provisions of the King County Ethics Code.***

DIRECTIONS: This meeting will be held on Saturday. Therefore, you must enter the courthouse from the Third Avenue entrance and sign in at the information desk in the rotunda. Take the elevators to the 4th floor and then proceed east, through the glass doors, to the conference room directly in front of you.

Board members with parking passes may park in the 5th Avenue garage, as usual.

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director–Ombudsman, Office of Citizen Complaints
Sheryl V. Whitney, Director, DIAS
James J. Buck, Deputy Director, DIAS
Carl A. Johansen, Senior Deputy Prosecuting Attorney

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Minutes of the October 9, 1999 Special Meeting of the King County Board of Ethics

The October 9, 1999, special meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 8:45 a.m. Board members in attendance were:

Dr. Lois Price Spratlen, Chair
Mr. Roland H. Carlson

Dr. Margo Gordon
Lembhard G. Howell, Esq.
Rev. Paul F. Pruitt

Others in attendance:

Ms. Leslie Leber, Temporary Assistant, King County Board of Ethics
Mr. Carl A. Johansen, Senior Deputy Prosecuting Attorney
Mr. Duncan Fowler, Ombudsman
Councilmember Jane Hague
From the King County Council staff:
Ms. Jeanne Keenan
Mr. Jeff Slayton
Ms. Kristine Ottaway
Mr. Mike Alvine
Mr. John Chelminiak

The chair invited everyone to introduce themselves before the start of business.

1. *Proposed Agenda.* Mr. Howell moved the approval of the proposed agenda; Mr. Carlson seconded the motion and the agenda was approved.

2. *Approval of Meeting Minutes of September 21, 1999.* Mr. Howell noted that on page three of the minutes, in the last sentence under "6. Financial Disclosure..." the addition of "Pruitt" after "Rev." was needed. With that correction, Mr. Howell moved to approve the September 21, 1999 meeting minutes; Mr. Carlson seconded the motion, and the minutes were approved.

3. *Discussion of Provisions of the King County Ethics Code.* Mr. Johansen distributed an outline to aid in the day's discussion. He briefly updated the board on a few key items: 1) recommended changes to the financial and consultant disclosure programs were reviewed and sent to the King County Council and the financial disclosure requirements will be on the Council's agenda for action on Monday, October 11, 1999; 2) Questions from the Council were received by the Board in July, 1999; 3) Ms. Clemens and Mr. Johansen reviewed the questions and prepared a set of questions and comments for the board to consider in their discussion today.

Mr. Johansen provided copies of RCW 42.23 and referred the Board to King County Charter 820 and King County Code chapter 3.04. Other materials in the Board packets included materials from other states, and from national ethics organizations relating to today's discussion. The discussion began with the Board addressing the six questions posed by Councilmembers in their letter of July 15, 1999.

Discussion of Question #1:

Discussion centered around 4 issues: 1) is an "invitation" to attend a fundraiser really a "solicitation"; 2) what is considered "county time" for councilmembers, since elected officials are not on a time clock; 3) would county resources be used; and 4) is there a difference between passive and active participation in fundraising for a non-profit organization?

Mr. Howell asked if an invitation is really just a solicitation. Mr. Johansen suggested that it would depend on the content and context of the invitation - does it ask for attendance only or attendance and a contribution. He pointed out that the State Legislative Ethics Board has stated that legislators should not be involved in direct solicitation, but that letters of support to a charitable organization have been considered within state ethics guidelines.

Mr. Johansen pointed out Advisory Opinions 1005 and 1154 state that employees may solicit on their own time, without identifying themselves as county employees. The question was then raised by Chair Price Spratlen - what is county time for councilmembers? They are elected officials, and as such are really "on" 24 hours a day, 7 days a week. Yet, we do want them to be able to engage in civic activities. Chair Price Spratlen stated that Councilmember "time" is hard to quantify.

Dr. Gordon asked if there were any standards set by the Council to aid members in deciding for which organizations to solicit. Councilmember Hague said that choosing which organizations to support is a personal choice for each councilmember, and there are no guidelines at the Council level. Mr. Johansen said ethics opinions from other jurisdictions have recognized that citizens vote for candidates based on who and what they support. Dr. Gordon said she thought it would be helpful for the Council to adopt guidelines to avoid questions about unfair treatment if a request for fundraising was not granted.

Mr. Howell suggested that the Board move on to Council questions #2 and #3 first, since they are easier to answer and may aid in answering #1. The Board agreed.

Discussion of Question #2:

The Board agreed that dissemination of information was not a problem, as long as it was purely informative and not suggesting that recipients make a donation (or stating "I really hope you'll consider making a donation.") Mr. Carlson suggested clarifying "charitable organization" to mean those organizations with 501(c)(3) status. The Board reached consensus on question #2.

Discussion of Question #3:

Mr. Howell suggested that there is a difference between donating personal or non-personal items (a personal item being "lunch with Councilmember X", and a non-personal item being a baseball signed by Ken Griffey, Jr. donated to an auction by Councilmember X.) The Board agreed with this distinction. Chair Price Spratlen stated that she wants there to be enough flexibility in what is decided to allow councilmembers to engage in a reasonable amount of activity; and she further stated that the Board may need to reconsider some of its opinions to allow de minimus contributions such as lunch.

The Board agreed that with the removal of the examples in the parentheses of question #3, there is consensus regarding question #3.

Discussion returned to Question #1:

Mr. Howell, Mr. Johansen and Mr. Fowler all pointed out that under current ethics advisory opinions, the activities stated in question #1 would not be permissible under the Code of Ethics. Mr. Howell suggested that the Board recommend changes to the Code and/or Advisory Opinions in order to allow solicitations by councilmembers for section 501(c)(3) charitable organizations.

Discussion of Question #4

The Board recommended that Mr. Johansen explore ways to modify the Code so that this kind of activity would be permissible. Dr. Gordon suggested that in order to avoid future problems, the new language include those doing business with King County.

The Chair called for a break between 10:35 and 10:45

Discussion of Question #5

Mr. Howell pointed out that restricting this kind of activity would be unconstitutional according to the First Amendment to the federal Constitution. Mr. Johansen stated that state law prohibits using county resources for political activities. The Board agreed that the

activities in question #5 are permissible; and include soliciting from those with business in front of the Council, if no county resources are used and there is compliance with chapter 42.17 RCW. The Board reached consensus on question #5.

Discussion of Question #6

The Board felt that this question has the same answer as #5 and reached consensus on this question.

The Board then looked at the handout "Questions and Comments on Six Questions Raised by Six Councilmembers" prepared by Ms. Clemens and Mr. Johansen.

Of the seven questions/comments, the Board felt that numbers 1, 5,6 and 7 were covered in the previous discussion today.

Regarding question/comment 2, Mr. Johansen clarified that the intent of the language is that there be no financial benefit, and agreed with the Board that public exposure or altruism are not considered to be benefits with regard to this statement.

Regarding question/comment 3, Councilmember Hague stated that distribution of County property such as surplus vans is already covered by standards within the county.

Regarding question/comment 4, the Board clarified that solicitations from Councilmembers might include those doing business in front of the Council and other persons.

Councilmember Hague thanked the Board for their consideration of Councilmembers' questions and for their time.

Chair Price Spratlen thanked Councilmember Hague and the members of the Council staff for their attendance and stated that collaboration between the Board and the Council is important and has been helpful.

Councilmember Hague, Ms. Jeanne Keenan, Ms. Kristine Ottaway, and Mr. Mike Alvine left the meeting at 11:20 a.m.

The Board discussed Councilmember Kent Pullen's recommendations for change to the financial disclosure requirements.

The Board's main concern is with the verb tense used by Councilmember Pullen in his recommendations. The disclosure programs require employees to disclose activity from the past 12 months, and have been worded in the past tense to reflect the requirement. Councilmember Pullen's recommendations for change are worded in the present tense, and there is concern that this will be confusing.

Regarding Councilmember Pullen's recommendation #2, the Board is concerned that the language is unclear regarding children of an employee or employee's partner who are not living at home. The language seems to require employees to report gifts received by their children, whether living at home or not.

Regarding Councilmember Pullen's recommendation #5, there is concern that the language will require **all** employees of the Department of Assessments to file financial disclosure statements.

Chair Price Spratlen reminded Board members that there is a Request for Appeal Hearing before the Board, and noted that she had designated Lem Howell to serve as hearing officer. The Board will consider her designation at the meeting on October 18, 1999.

Chair Price Spratlen stated that Board members could consider the contents of a confidential letter from Ms. Clemens at the Board meeting on October 18, 1999.

Mr. Fowler said he thought there might be interest by members of the Council in having "public office" funds, similar to those of elected officials at the city of Seattle. Mr. Howell responded that the Board had previously considered "public office" funds that could be used to pay non-reimbursable public office expenses. He said the Board had agreed the Council could establish a policy for "public office" funds but the Board had decided not to forward any specific recommendation to the Council.

Mr. Fowler asked the Board to keep in mind that the Office of the Ombudsman faces potential conflict of interest issues around investigating Councilmembers, since the staff of the Ombudsman are approved by Council, as are contracts for legal services.

Chair Price Spratlen thanked Ms. Clemens and Mr. Johansen for their efforts to prepare materials to the meeting and make the day's meeting a success.

At 11:55 a.m., Mr. Carlson moved to adjourn the meeting. Mr. Howell seconded the motion. The motion was approved unanimously and the meeting was adjourned.

Approved this _____ day of _____, 1999 by the King County Board of Ethics.

Signed for the
Board: _____

Dr. Lois Price Spratlen, Chair